

Remarks

Claims 1-24 remain pending in the application and currently stand rejected. Claim 17 is amended herein. The Assignee respectfully traverses the rejections and requests allowance of claims 1-24.

Amendments to the Drawings

Fig. 1 is amended to change the reference numeral 520 to 501 to alleviate a conflict with reference numeral 520 in Fig. 5.

Fig. 4 is amended to change the reference numeral associated with the link coupling the interface 475 and the switch 425 from 418 to 415, as reference numeral 418 is employed for the link between the satellite receiver 460 and the contention server 455.

Fig. 5 is amended to change the reference numeral associated with the base antenna from 160 to 540 to properly align with the corresponding language of the specification and the use of the numeral in Fig. 14.

Fig. 14 is amended to add a link 511 between the router 505 and the switch 510, which is properly shown in Fig. 5.

Each of the drawing amendments is reflected in a corresponding replacement drawing sheet attached to this Response.

Amendments to the Specification

Generally, various paragraphs and a table of the specification have been amended to remove references to customer premises 610 and 620, which do not appear in the drawings. Also, the reference numeral for the market hub/head end of Fig. 1 has been changed from 520 to 501 in order to avoid conflict with the downstream manager 520 of Fig. 5. In addition, references to links 113 and 114 have been replaced with link 116 to correctly correspond with Fig. 1. Also, any references to head end 510 have been removed, as that element does not appear in the drawings. Some language has also been added to the specification to refer to the sectors 161-170, as well as the link 131 coupling the head end 500 with the base antenna 160, as shown in Fig. 1.

Some new paragraphs have been added to the specification to properly refer to various

elements of Figs. 3-5 that were previously left unnoted. More specifically, references now appear in the specification to the regional domain name server (DNS) 365 and its associated link 313 of Fig. 3; the market DNS 465, alarm system 470, interface 475, file transfer protocol (FTP) test server 480, and Remote Monitor (RMON) probe 495, along with associated links 413-415, 419 and 421, of Fig. 4; and the DNS 591, alarm system 592, asynchronous ports 593, interface 594 and monitor system 596, in addition to the channel combiner 536 and corresponding link 562, of Fig. 5.

The paragraph beginning at page 15, line 15, is also amended to eliminate a typographical error involving the word “similar.”

Claim Amendments

Claim 17 is amended to add the article “the” prior to one of the instances of the word “processor” for grammatical purposes. As a result, the amendment does not represent any reduction in subject matter or scope of claim 17.

Objections to the Drawings and Specification

The specification and drawings are objected to in the Office action due to various informalities. Pages 2 and 3 of the Office action. For example, Fig. 4 is objected to for the incorporation of reference characters 465, 470, 475, 480 and 495, which are not discussed in the specification. Also, reference characters 610 and 620 are referred in the specification as customer premises, but reference number 610 does not appear in the drawings, and reference numeral 620 is employed to refer to a transceiver in Fig. 6. Further, the specification references a base antenna 540 in Fig. 5. However, Fig. 5 employs reference numeral 160 for the base antenna, while Fig. 14 employs reference numeral 540 for that element.

As discussed above, various amendments to the specification and drawings are included herein to address these and other informalities in the specification. As each of the amendments is supported in the original specification and drawings, no new matter has been added. In light of these amendments, the Assignee believes that the informalities of the specification and drawings have been eliminated, and thus respectfully requests that the objections to the specification and drawings be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 3, 6, 9, 11, 14, 17, 19 and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,327,620 to Tams et al. (hereinafter “Tams”). The Assignee respectfully traverses the rejection in light of the following discussion.

Claim 1 provides a method that includes, in part, generating and transmitting instructions to each of a Remote Monitoring (RMON) probe, an RMON manager, and an RMON database, each of which provides RMON information that is received and stored in a memory of a performance management system. Claim 9 (directed to a software product) and claim 17 (directed to an RMON management system) incorporate similar provisions. The Office action indicates that Tams discloses each of these limitations. Pages 4 and 5 of the Office action. The Assignee respectfully disagrees with this assertion.

Tams discloses a management station 150 coupled to each of a plurality of RMON probes 127, 137, 147. Figs. 2 and 5, and col. 8, lines 21-23. Each of the RMON probes 127, 137, 147 is coupled to a data link of an associated local area network (LAN) for the collection of traffic information regarding the links to which each is coupled. Column 8, lines 3-15. “The management station 150 collects and processes network traffic data from the probes 127, 137, 147 included in the network.” Column 9, lines 46-48. Also, within the management station 150 lies a network traffic database 510 containing groups of data sets generated from the network traffic data. Fig. 5 and column 12, lines 51-65.

This system is generally indicated by the prior art diagram of Fig. 22 of the present application. More specifically, the RMON probes 127, 137, 147 of Tams are represented in Fig. 22 in the present application by the RMON probe 2210. Similarly, the management station 150 is analogous to the NetScout Manager 2220, while the network traffic database 510 is identified with the RMON database 2230. Also, like the present application, Tams also recognizes that such a management station typically is coupled with a probe in the prior art, as “[n]etwork traffic data collected by a probe is normally stored internally within the probe until, e.g., being provided to a network management station.” Background section, column 2, lines 25-27.

However, the claims of the present application provide for an additional system, a performance management system which communicates with each of an RMON probe, an RMON manager, and an RMON database. Thus, the RMON probe, the RMON manager and the RMON database are *separate* from the performance management system as referenced in claims

1, 9 and 17. Oppositely, Tams does not mention a separate performance management system communicating with each of the RMON probes 127, 137, 147, the management station 150, and the RMON database 510. Thus, the Assignee contends that Tams does not teach or suggest the various elements of claims 1, 9 and 17, and such indication is respectfully requested.

In addition, claims 3 and 6 depend from independent claim 1, claims 11 and 14 depend from independent claim 9, and claims 19 and 22 depend from independent claim 17, and thus incorporate the limitations of their corresponding independent claims. Thus, the Assignee asserts that claims 3, 6, 11, 14, 19 and 22 are allowable for at least the reasons given above with respect to independent claims 1, 9 and 17, and such indication is respectfully requested.

Therefore, given the foregoing discussion, the Assignee respectfully requests the withdrawal of the rejection of claims 1, 3, 6, 9, 11, 14, 17, 19 and 22.

Claim Rejections Under 35 U.S.C. § 103

Claims 2, 4, 5, 10, 12, 13, 18, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tams in view of U.S. Patent No. 6,112,241 to Abdelnour et al. (hereinafter “Abdelnour”). The Assignee respectfully traverses the rejection in light of the foregoing remarks regarding Tams.

In addition, Abdelnour discusses a LAN switch with an integrated RMON probe, and mentions a prior-art network management workstation, such as that indicated by the NetScout Manager 2220 of prior-art Figure 22 of the present application. Abstract; column 3, lines 1-12; and column 1, lines 31-58, of Abdelnour. However, like Tams, Abdelnour does not teach or suggest a performance management system as referenced in claims 1, 9 and 17, which is a separate entity from an RMON manager. Thus, neither Tams, nor Abdelnour, nor any combination thereof, teach or suggest the subject matter of claims 1, 9 and 17.

Further, claims 2, 4 and 5 depend from independent claim 1, claims 10, 12 and 13 depend from independent claim 9, and claims 18, 20 and 21 depend from independent claim 17, and thus incorporate the limitations originally presented in their associated independent claims. Thus, the Assignee contends that these claims are allowable for at least the reasons presented above in support of claims 1, 9 and 17. Therefore, the Assignee respectfully requests withdrawal of the rejection of claims 2, 4, 5, 10, 12, 13, 18, 20 and 21.

Claims 7, 8, 15, 16, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being

unpatentable over Tams in view of U.S. Patent No. 6,363,477 to Fletcher et al. (hereinafter "Fletcher"). The Assignee respectfully traverses the rejection in light of the foregoing remarks regarding Tams.

In addition, Fletcher discloses the monitoring of network traffic by "a server- and client-implemented process that determines application information and performance statistics associated with network applications used by client and server computer systems in both unencrypted and encrypted network environments. The present invention is implemented using a software module inserted between the application layer, specifically the application program interface, and the protocol stack in a computer system." Column 9, lines 42-49. No mention is made of remote monitors other than in the background section of Fletcher. Thus, Fletcher does not teach or suggest a performance management system as described in claims 1, 9 and 17.

Further, claims 7 and 8 depend from independent claim 1, claims 15 and 16 depend from independent claim 9, and claims 23 and 24 depend from independent claim 17, and thus incorporate the limitations originally presented in their corresponding independent claims. Therefore, the Assignee asserts that these claims are allowable for at least the reasons presented above in support of claims 1, 9 and 17. The Assignee thus respectfully requests withdrawal of the rejection of claims 7, 8, 15, 16, 23 and 24.

Conclusion

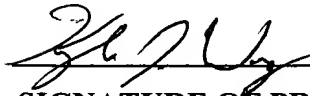
The prior art made of record and not relied upon (i.e., U.S. Patent No. 6,628,304 to Mitchell et al., U.S. Patent No. 5,862,335 to Welch et al., and U.S. Patent No. 6,269,330 to Cidon et al.) have been reviewed and are not considered to teach or suggest the current invention as claimed.

Based on the above remarks, the Assignee submits that claims 1-24 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1-24.

The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

Date: 3/18/05



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